

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1696 of 1985

Hon'ble MR.JUSTICE Y.B.BHATT

- =====
1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

SALAT DHANAJI KALIDAS

Versus

SALAT LADHIBHAI LADHABHAI

Appearance:

MR HRITAY C. BUCH for MR ND NANAVATI for Petitioner
MR PV HATHI for Respondent

CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 07/04/2000

ORAL JUDGEMENT

1. This is a revision under section 29(2) of the Bombay Rent Act, at the instance of the original defendant-tenant against whom the trial court had passed a decree for eviction under the provisions of the Bombay Rent act, which decree was confirmed in appeal against the defendant.

2. Before proceeding with the merits of the matter it would be pertinent to bear in mind the principles laid down by the Supreme Court while dealing with the revisions arising under section 29(2) of the said Act. The Supreme Court in the case of Patel Valmik Himatlal & Others Vs. Patel Mohanlal Muljibhai [1998(2) GLH 736 = AIR 1998 SC 3325], while approving and reiterating the principles laid down in its earlier decision in the case of Helper Girdharbhai Vs. Saiyad Hohmad Mirasaheb Kadri [AIR 1987 SC 1782], held that High Court cannot function as a court of appeal, cannot reappreciate the evidence on record, cannot discard concurrent findings of fact based on evidence recorded by the courts below, and cannot interfere on grounds of inadequacy or insufficiency of evidence, and cannot interfere, except in cases where conclusions drawn by the courts below are on the basis of no evidence at all, or are perverse. A different interpretation on facts is also not possible merely because another view on the same set of facts may just be possible.

3. Only a few salient features require to be noted. Both the courts below have recorded findings of fact against the defendant-tenant on the basis of ample evidentiary material on record. Both the courts have recorded concurrent findings of fact that the tenant was in arrears of more than six months and that since the case falls within the purview of section 12(3)(a) of the Bombay Rent Act and since the tenant has failed to make payment or deposit in court the requisite amount within 30 days of the suit notice, a decree for eviction must follow.

4. On a total consideration of the evidentiary material on record I am inclined to uphold the judgement and decree of the trial court as confirmed in appeal, and consequently to dismiss the present revision application.

5. At this stage learned counsel for the petitioner-tenant submits that he does not require detailed reasons for the dismissal of the revision and therefore I am not giving the same. Accordingly this revision is dismissed. Rule is discharged with no order as to costs. Interim relief stands vacated.

6. Learned counsel for the petitioner seeks time of six months to vacate the premises in question. Mr. P.V. Hathi, learned counsel for the respondent, has no objection if such time is granted. Accordingly the petitioner is granted six months time to vacate the suit premises i.e. upto 15th October 2000, subject to the

petitioner-tenant filing the usual undertaking within
three weeks from today.
